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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/775,115

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Johnny B. Corvin

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10/05/2006

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EXAMINER

SHEPARD, JUSTIN E

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/775,115

Applicant(s)

CORVIN, JOHNNY B.

Examiner

Justin E. Shepard

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-16 and 40-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-16 and 40-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-16, and 40-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Nagasaka in further view of Dunn.

Regarding claims 14, 40, 43, and 46, the Zigmond reference teaches all of that which is discussed with regards to the "method of presenting a forced advertisement to a television viewer" as follows:

- The claimed step of "detecting the forced advertisement in an incoming video stream" is met by the delivery of the program stream and the targeted advertisements and the subsequent detection of a triggering event in the program stream to trigger the display of the targeted ad [col. 7, lines 2-32].

- The claimed step of “displaying the forced advertisement” is met by the ability to display the targeted advertisement to the viewer via display device 58 [col. 7, lines 30-32].
- The claimed step of “in response to the television viewer turning off and on user equipment on which the forced advertisement was being presented, presenting the forced advertisement from the beginning of the forced advertisement or recommencing the forced advertisement from the point at which the user equipment was turned off” is met by the discussion of eliminating “aggressive channel surfers” [col. 13, lines 16-39]. Here Zigmond teaches recommencing an advertisement on a channel change (thereby forcing the viewer to view the entire commercial no matter how many times the channel is changed).

While Zigmond does teach the ability to change channels and recommence a commercial until it has been significantly viewed by the subscriber, he does not teach turning off the television and starting the advertisement from the beginning once the television is turned back on.

The Nagasaka reference teaches, in an analogous art, a system wherein a set top box stores information of the last place a video played before the STB was turned off, and gives the user the option of resuming the video at the same place once the STB is turned back on (column 14, lines 21-26).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the video resuming taught by Nagasaka in the system disclosed by

Zigmond. The motivation would have been to allow the user to have the ability to watch a program or commercial from the point when the power was lost.

Zigmond and Nagasaka do not disclose a system where the advertisement is automatically presented after the user equipment is turned back on.

Dunn discloses a system where the advertisement is automatically presented after the user equipment is turned back on (column 2, lines 11-18).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the automatic resuming taught by Dunn to the system disclosed by Zigmond and Nagasaka. The motivation would have been to force the user to watch the commercial or program after the power turned back on.

Regarding claims 15, 41, 44, and 47, the Zigmond reference further meets the claimed step of "preventing the television viewer from changing channels during playing of the forced advertisement." Column 13, lines 16-39 disclose a way of curbing "aggressive channel surfing" which forces the users to view commercials in their entirety and does not allow the switching of channels to other programs before the commercial is fully viewed.

Regarding claims 16, 42, 45, and 48, the Zigmond reference further meets the claim that the "forced advertisement is stored in the user equipment". Column 8, lines 3-7 discuss the use of a local repository for storing targeted advertisements at the user device.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS



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